S. RES. 47

Resolved by the Senate (the House of Representatives concurring), That a Joint Congressional Committee on Inaugural Ceremonies consisting of 3 Senators and 3 Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on the 20th day of January 1997.

S. RES. 48

Resolved by the Senate (the House of Representatives concurring), That (a) the rotunda of the United States Capitol is hereby authorized to be used on January 20, 1997, by the Joint Congressional Committee on Inaugural Ceremonies (the ''Joint Committee'') in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

(b) The Joint Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies. The Joint Committee may accept gifts and donations of goods and services to carry out its responsibilities.

ANNUAL REFUGEE CONSULTATION

Mr. SIMPSON. Mr. President, in accordance with the Refugee Act of 1980, I ask unanimous consent to have printed in the RECORD a copy of a letter to the President dated September 30, 1996, and signed by Senator KENNEDY as ranking member and by me as chairman of the Subcommittee on Immigration of the Judiciary Committee, and a copy of Presidential Determination 96–59, concerning refugee admissions for fiscal year 1997.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 30, 1996.

The President,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Under the provisions of the Refugee Act of 1980, members of the Committee on the Judiciary have now consulted with your representatives on the proposed admission of refugees for Fiscal Year 1997.

We note that refugee numbers continued a gradual downward trend. We would comment that the 78,000 figure, while technically correct as to refugee admissions, does not reflect the Cuban entrants, who for all intents and purposes are treated as refugees. We believe that it would be helpful in future years if the reports of State, HHS, and INS included information on the admission of Cuban—and other—entrants, as well as refugees. We believe that would provide both a clearer and more realistic picture of the overall admissions process.

We are hopeful, as well, that next year's report will include a discussion of refugee welfare dependence in its ''analysis of the anticipated social, economic, and demographic impact'' of proposed refugee admissions, and the steps that are undertaken to move refugees to self-sufficiency.

We want to congratulate the Administration on its role in the successful completion of the Comprehensive Plan of Action, and on the significant accomplishment in bringing this historic program to an end. We believe that, after 20 years and 1.2 million persons resettled, the close of the Southeast Asian and the Amerasian programs is appropriate, and expect that the ''ROVR'' initiative, by which a number of the remaining Vietnamese may be considered for U.S. resettlement, will fit within the 10,000 numbers allocated to Southeast Asia.

We can foresee fast-moving refugee situations developing in Bosnia and Iraq. We trust that the Administration will maintain close contact with the Congress regarding its plans in these areas. When significant numbers of former residents return to Bosnia, for example, serious instability could quickly ensue. Similarly, the situation in Iraq could change dramatically at any moment. Such changes might necessitate the use of Emergency Refugee and Migration Assistance (ERMA) or other emergency measures.

We commend the Administration for acting rapidly to move 2,100 Iraqis who have worked closely with this country and the United Nations in northern Iraq out of harm's way. We urge that the Administration consider the safety of those Kurdish employees of American non-governmental organizations working in Iraq.

We share your commitment to strengthening U.S. refugee admissions and assistance programs consistent with the guiding principles set forth in the Refugee Act of 1980. We continue to believe that the United States should do its share in providing resettlement opportunities to true refugees who cannot safely return home nor stay in the region of first asylum. We strongly support the need to contribute our fair share to life-saving assistance programs. Such programs provide assistance to so many more refugees that the resettlement of the much smaller numbers who have no other option and are of special humanitarian concern to the United States.

We support your proposal for sufficient funds to provide cash and medical assistance to eligible refugees during their first eight months after arrival here.

We concur with your proposal to admit 78,000 refugees in FY97.

Most sincerely,

EDWARD M. KENNEDY,
Ranking Member, Subcommittee on Immigration.

ALAN K. SIMPSON,
Chairman, Subcommittee on immigration.

THE WHITE HOUSE,
Washington, September 30, 1996.

PRESIDENTIAL DETERMINATION NO. 96–59

Memorandum for the Secretary of State:

Subject: Presidential Determination on FY 1997 Refugee Admissions Numbers and Authorizations of In-Country Refugee Status Pursuant to Sections 207 and 101(a)(42), Respectively, of the Immigration and Nationality Act, and Determination Pursuant to Section 2(b)(2) of the Migration and Refugee Assistance Act, as Amended.

In accordance with section 207 of the Immigration and Nationality Act (''the Act'') (8 U.S.C. 1157), as amended, and after appropriate consultation with the Congress, I hereby make the following determinations and authorize the following actions: The admission of up to 78,000 refugees to the United States during FY 1997 is justified by humanitarian concerns or is otherwise in the national interest; provided, however, that this number shall be understood as including persons admitted to the United States during FY 1997 with Federal refugee resettlement assistance under the Amerasian immigrant admissions program, as provided below.

The 78,000 funded admissions shall be allocated among refugees of special humanitarian concern to the United States as described in the documentation presented to the Congress during the consultations that preceded this determination and in accordance with the following regional allocations; provided, however, that the number allocated to the East Asia region shall include persons admitted to the United States during FY 1997 with Federal with Federal refugee resettlement assistance under section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988, as contained in section 101(e) of Public Law 100–202 (Amerasian immigrants and their family members); provided further that the number allocated to the former Soviet Union shall include persons admitted who were nationals of the former Soviet Union, or in the case of persons having no nationality, who were habitual residents of the former Soviet Union, prior to September 2, 1991:

Africa	7,000
East Asia	10,000
Europe	48,000
Latin America/Caribbean	4,000
Near East/South Asia	4,000
Unallocated	5,000

The 5,000 unallocated federally funded numbers shall be allocated as needed. Unused admissions numbers allocated to a particular region within the 78,000 federally funded ceiling may be transferred to one or more other regions if there is an overriding need for greater numbers for the region or regions to which the numbers are being transferred. You are hereby authorized and directed to consult with the Judiciary Committees of the Congress prior to any such use of the unallocated numbers or reallocation of numbers from one region to another.

Pursuant to section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(b)(2), I hereby determine that assistance to or on behalf of persons applying for admission to the United States as part of the overseas refugee admissions program will contribute to the foreign policy interests of the United States and designate such persons for this purpose.

An additional 10,000 refugee admissions numbers shall be made available during FY 1977 for the adjustment to permanent resident status under section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) of aliens who have been granted asylum in the United States under section 208 of the Act (8 U.S.C. 1158), as this is justified by humanitarian concerns or is otherwise in the national interest.

In accordance with section 101(a)(42)(B) of the Act (8 U.S.C. 1101(a)(42)) and after appropriate consultation with the Congress, I also specify that, for FY 1997, the following persons may, if otherwise qualified, be considered refugees for the purpose of admission to the United States within their countries of nationality or habitual residence:

a. Persons in Vietnam
b. Persons in Cuba
c. Persons in the former Soviet Union

You are authorized and directed to report this determination to the Congress immediately and to publish it in the Federal Register.

WILLIAM J. CLINTON.

LENDER LIABILITY PROVISIONS IN THE OMNIBUS APPROPRIATIONS BILL

Mr. LAUTENBERG. Mr. President, earlier this week we passed the omnibus appropriations bill. Included in

that bill are provisions that clarify lender liability issues under Superfund. These are important provisions that make it clear that lenders that do not participate in management are not liable under Superfund or the underground storage tank provisions of RCRA.

It is also important, however, that we clarify a critical aspect of these provisons. First, you and I are aware of the colloquy in the CONGRESSIONAL RECORD of September 30, 1996, between Senators SMITH and D'AMATO regarding the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act of 1996. The colloquy seems to suggest that under the bill, EPA has no authority whatsoever to promulgate regulations on CERCLA liability. That was not my understanding of the intent of the lender and fiduciary provisions.

My understanding is that our intention was to substantially endorse EPA's addressing of lender liability under Superfund in its 1992 lender liability rule, and to validate EPA's prior exercise of rulemaking authority for lenders and fiduciaries. Addressing lender liability specifically in this bill was necessary because, in 1980, Congress did not foresee how its original language, protecting security interest holders from liability, would be interpreted. Congress also could not have foreseen the restrictive view in *Kelley* v. *EPA*, 15 F.3d 1100 (D.C. Cir. 1994), of EPA's authority to issue rules interpreting Superfund authority. The omnibus appropriations bill specifically addresses and modifies the earlier interpretations of the original language. Should new circumstances again arise concerning interpretations of lender and fiduciary liability, we believe and it is our intent that EPA has the authority to clarify and refine the liability rules applying to lenders and fiduciaries.

Mr. BAUCUS, is it correct that nothing in the lender liability provisions in the omnibus appropriations bill, precludes EPA from issuing rules to clarify and refine the rules applying to lenders and fiduciaries?

Mr. BAUCUS. Yes, what you have expressed is my understanding of the intent of Congress in enacting this legislation.

Mr. LAUTENBERG. That earlier colloquy also talked about a recent opinion of the U.S. Court of Appeals for the District of Columbia, *Kelley* v. *EPA*, 15 F.3d 1100 (D.C. Cir. 1994), reh'g denied, 25 F.3d 1088 (D.C. Cir. 1996). I think it is important that we avoid any misunderstanding, based on that case, concerning EPA's authority to issue rules. The Kelley decision struck down EPA's original lender liability rule, but this legislation recognizes EPA's authority to promulgate rules in this area. This is consistent with our general intent that EPA should use its expertise to issue authoritative interpretations of CERCLA, whether by guidance or regulation. For example, EPA has issued guidances pertaining to the liability of residential homeowners, de minimis and de micromis parties, and others. Such clarifications and expressions of prosecutorial discretion have served to reduce litigation and given the regulated community and others clarity over questions of liability.

Mr. BAUCUS, is it correct that the lender liability provisions in the omnibus appropriations bill are intended to reaffirm EPA's ability to issue such interpretative guidance?

Mr. BAUCUS. Yes, that is my understanding of the intent of the lender and fiduciary liability provisions.

ON THE POLITICIZATION OF THE FBI BY FBI GENERAL COUNSEL HOWARD SHAPIRO

Mr. GRASSLEY. Mr. President, on September 25, the Judiciary Committee held a hearing about the White House and FBI files matter. I attended that hearing for the testimony of Mr. Craig Livingstone. However, I was necessarily absent for the testimony of FBI General Counsel Howard Shapiro.

I was unable to make my comments a part of that record. However, I am compelled to make them a part of the RECORD of this body. This is an extremely important issue, in my view. And it begs the attention of all of my colleagues.

Allegations have been made against Mr. Shapiro that he has been too cozy with the Clinton White House. I'd like to remind my colleagues that when law enforcement plays footsie with the White House, law enforcement decisions become political. And that can lead to a gross abuse of the powers of law enforcement. Civil liberties can be trampled on, and the pursuit of justice can be frustrated.

After the White House travel office firings, the FBI was accused of allowing itself to be politicized. Bureau Director Louis Freeh said he would put an end to even the appearance of a cozy relationship. He said, ''I told the President that the FBI must maintain its independence and have no role in politics.'' Mr. Freeh understands the necessity of keeping a wall between politics and law enforcement.

But, Mr. President, many of us in the Congress are not convinced that Mr. Freeh has reconstructed that wall. Questions arise because of specific actions taken in the Filegate matter by his general counsel. Mr. Shapiro is Director Freeh's hand-picked counsel. In the wake of the allegations, Mr. Freeh has expressed confidence in Mr. Shapiro, much as he did with agent Larry Potts. Mr. Potts was involved in the disaster at Ruby Ridge.

The sum of Mr. Shapiro's actions greatly benefited the subjects of congressional and independent counsel investigations; that is, present and former White House employees. At the same time, Mr. Shapiro's actions may have done much harm to the investigations.

Four specific actions suggest that Mr. Shapiro played ball with the White House:

Issue 1. On July 16, Shapiro gave a heads-up to the White House about what was found in Craig Livingstone's FBI background file by the staff of the House Government Reform and Oversight Committee. The chairman had been invited to review the Livingstone file by Director Freeh. But before the chairman arrived, Mr. Shapiro notified the White House of a politically explosive item contained in the file.

In the file, it was discovered that an FBI agent had interviewed former White House Counsel Bernard Nussbaum. The agent's notes say that Nussbaum reported the First Lady was instrumental in hiring Mr. Livingstone.

Mr. Livingstone is one of two central players in the Filegate affair. One of the important, unanswered questions is, who hired him and why. Clearly, the information had relevance to the investigation.

But the effect of Mr. Shapiro's heads-up was to alert the White House damage control operation. That way, everyone could get their stories straight before being interviewed. Sixteen people under investigation, and/or their attorneys, and/or members of the damage control team knew about the item before the Chairman of the Committee could read the file. This includes a witness about to go before a federal grand jury.

Mr. Shapiro claims his purpose for the heads-up was to make sure both sides were equally apprised. It was his effort to appear neutral. However, Mr. Shapiro managed to achieve the opposite of his stated intention. He gave everyone being investigated a heads-up. That's a fact. The investigators were the last to know. That's also a fact. If Mr. Shapiro were really being neutral, he would have refrained from doing anything. Instead, he gratuitously appointed himself referee and inserted himself in the middle of three investigations. Now, as a result, his actions and judgment must be called into question.

Just one month prior to this—on June 14—this very same Howard Shapiro personally authored the FBI's own review of the files matter. That review vowed that the FBI never would be ''victimized'' again by the White House. In my judgment, that hollow promise was broken barely a month later.

Issue 2. Mr. Shapiro also gave the White House an advance copy of the Gary Aldrich book. That's the controversial and revealing book written by the FBI agent who formerly investigated the backgrounds of White House employees. Mr. Shapiro gave the advance copy to the White House damage control outfit. That way, the White House could prepare ahead of time its vitriolic attack-responses against Mr. Aldrich once the book was published.

Mr. Shapiro's stated reason for this heads-up was he was concerned the